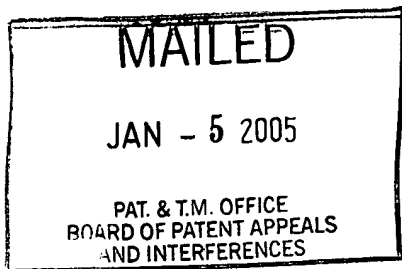




## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Richard E. Schafer  
Telephone: (571) 272-9797  
Facsimile: (571) 273-0042



Applicants: Beall et al.  
Application No.: 09/203,166  
Filed: 12/01/98  
For: Athermal optical devices employing  
negative expansion substrates

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,253.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

A handwritten signature in cursive script, reading "Richard E. Schafer".  
Richard E. Schafer  
Administrative Patent Judge

Filed by: Richard E. Schafer  
Administrative Patent Judge  
Mail Stop Interference  
P.O. Box 1450  
Alexandria Va 22313-1450  
Tel: 571-272-9797  
Fax: 571-273-0042

Filed : January 5, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

---

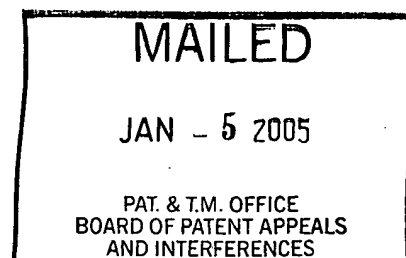
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

FITEL USA CORPORATION,  
Junior Party  
(Patent 5,694,503),

v.

CORNING, INC.,  
Senior Party  
(Application 09/203,166).



---

Patent Interference No. 105,253 (RES)

---

**DECLARATION**

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

**Part B. Judge managing the interference**

Administrative Patent Judge Richard E. Schafer has been designated to manage the interference. 37 CFR § 41.104(a) [Bd. R. 104(a)].

### **Part C. Standing order**

A Trial Section STANDING ORDER [SO] accompanies this DECLARATION. The STANDING ORDER applies to this interference.

### **Part D. Initial conference call**

A telephone conference call to discuss the interference is set for **10:00 a.m. on March 1, 2005** (the Board will initiate the call).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile (SO ¶ 4.5) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶ 26) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

### **Part E. Identification and order of the parties**

#### Junior Party

Named inventors:	Debra Anne Fleming, New Jersey David Wilfred Johnson, New Jersey Paul Joseph Lemaire, New Jersey
Patent:	5,694,503, issued December 2, 1997, based on Application 08/707,879, filed September 9, 1996
Title:	Article comprising a temperature compensated Optical fiber refractive index grating
Assignee:	Fitel USA Corporation
Accorded Benefit:	None

Senior Party

Named Inventors: George H. Beall, New York  
David L. Weidman, New York

Application: 09/203,166, filed December 1, 1998

Title: Athermal optical devices employing  
negative expansion substrates

Assignee: Corning, Inc.

Accorded Benefit: PCT application PCT/US96/13062,  
filed August 7, 1996

**The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1). The senior party is responsible for initiating settlement discussions. SO ¶ 18.**

**Part F. Count and claims of the parties**

Count 1

Claim 1 of Fleming U.S. Patent 5,694,503.

The claims of the parties are:

Fitel: 1-13

Corning: 41-50, 52, 54-61

The claims of the parties which correspond to Count 1 are:

Fitel: 1-13

Corning: 41-50, 52, 54-61

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Fitel: None

Corning: None

**Part G. Heading to be used on papers**

The heading in SO Form 1 must be used on all papers filed in this interference. See SO ¶ 7.2.1. The administrative patent judge and parties must be indicated as follows:

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Richard E. Schafer)

---

FITEL USA CORPORATION,  
Junior Party  
(Patent 5,694,503),

v.

CORNING, INC.,  
Senior Party  
(Application 09/203,166).

---

Patent Interference No. 105,253 (RES)

---

**Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Part E of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

  
Richard E. Schafer  
Administrative Patent Judge

Enc:

Standing Order  
Copy U.S. Patent 5,694,503  
Copy of claims of 09/203,166

Revised September 2004

cc (via overnight delivery):

Attorney for Fitel USA Corporation:

John M. Harman  
Fitel USA Corporation  
Docket Administrator, Suite F020  
2000 Northeast Expressway  
Norcross, GA 30071

Attorney for Corning, Inc.:

Maurice M. Klee  
1951 Burr Street  
Fairfield, CT 06430

## INTERFERENCE DIGEST

Interference No. 105,253

Paper No. 22

Name: George H. Beall et al.

Serial No.: 09/203,166

Patent No.

Title: Athermal optical devices employing negative expansion substrates

Filed: 12/1/98

Interference with Fleming et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

---

---

---

### FINAL DECISION

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_

---

Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

---

---

---

This should be placed in each application or patent involved in interference in addition to the interference letters.